NR 445 Technical Advisory Group Meeting 14
January 7, 2002 Notes
Wisconsin Dept. Natural Resources
101 S. Webster Street, Madison, WI

TAG Attendance: *Jim Beasom, Appleton Papers;Hank Handzel, Printing Industries of WI & WI Paper Council; John Hausbeck, Madison Public Health Dept.; Howard Hofmeister, Bemis Company; Brian Mitchell, WI Cast Metals Assoc.; Annabeth Reitter, Stora Enso; Rudy Salcedo, Milwaukee Health Department; Rob Sherman, Kraft Foods; Jeff Schoepke, WMC; Pat Stevens, WI Transportation Builders Association; Ty Stocksdale, SC Johnson; Mark Werner, WI Bureau of Public Health; Ed Wilusz, WI Paper Council; Jen Wisniewski, Briggs and Stratton; Caroline Garber, WDNR; Patrick Kirsop, WDNR; Jeff Myers, WDNR; Andrew Stewart, WDNR*

Committee Attendance: *Tina Ball, Xcel Energy; Renee Lesjak-Bashel, Commerce; Marc Bentley, Bentley Government Affairs; Troy Batzel, Kwik Trip; Linda Bochert, Michael Best & Friedrich; Tom Coogan, Commerce; Bernie Evans, ERM; Robert Fassbender, HFO Associates; Myron Hafele, Kohler Co.; John Heinen, Richland Center Foundry; Patricia Kandziora, UW-System Admin.; Christopher Proctor, Free Flow Technologies; Jill Stevens, Alliant Energy; Lauren Trick, EarthTech; Erin White, USEPA Region 5*

I. Welcome/Introductions/Review of Meeting Notes/Agenda Review

- **Welcome** – Caroline Garber welcomed TAG and Toxics Committee members.
- **Review of Meeting Notes** – No changes were noted to the December 3, 2001 TAG minutes. Subsequently, Rob Sherman's name has been added to the TAG Attendance roster.
- **Review of Meeting Agenda**
  C. Garber reviewed the agenda and asked for comments. No suggestions for additional items for the agenda were brought forward.

II. Review of Comments Received on Draft #3 of the Rule Proposal

- C. Garber summarized some of the comments we have received from various stakeholders (WI Manufacturers and Commerce, WI Paper Council, Kohler, Briggs & Stratton) on draft #3 of the proposed rule language. Some comments were in regard to the scope of the rule itself and are beyond issues of rule drafting language, so she stated that these topics would be addressed in the "background document" and "green sheet" materials that discuss the rule proposal. Issues of pertinence to the rule drafting and policy issues that are covered in the rule proposal are:

- **Timeline for the rule** – it will not be possible to have a final draft of the rule ready in February. Comments on Draft #4 of the rule are due February 4th. At the February 4th TAG meeting, the topics will be the business impact workshop results, a proposal on diesel and further language dealing with small emitters, due diligence, and search and inquiry. A draft #5 of the rule is scheduled to be completed in early March 2002 and there will be time for comments on this draft. There will be 2 versions prepared – a rule drafter's version and a version similar to what we have handed out in the past. The 6th draft of the rule is what will be presented to the Natural Resources Board. The scheduled date for bringing the rule package to the Board is May or June 2002.

- **Listing protocol for what chemicals are placed into NR 445** – Some commenters wanted Department staff to re-evaluate the listing protocol and some have suggested putting the decision rules into the rule. Staff wants to make it clear that only the chemicals that passed through the decision rules for listing are on the current list of proposed additions.

- **Timeframe for regular updates to the rule in the future-** commenters said that requiring a rule to be updated every two years could be problematic for the agency as well as affected sources. Staff intent was that a review of the status of chemicals for addition or delisting be undertaken every two years, but this does not mean that the rule will be revised every 2 years. This will be clarified in Draft #5.

- **Processes and scope of language to describe special studies** – Some commenters stated that listing chemicals in the rule before evaluating if regulations are warranted, is not appropriate (e.g., silica and wood dust should not be listed in Table A). DNR staff will continue to evaluate this comment, but believe listing a chemical indicates that it is a hazardous air contaminant and the purpose of a special study is to evaluate (from a risk management perspective) what prudent measures can be taken to reduce or eliminate exposures to these chemicals.

  Another comment was the language for describing the process for special studies. Some commenters believe that requiring a final study with recommendations in 2 years was unrealistic and that the current wording seems to mandate that a rule revision be made. DNR staff is contemplating changing the proposed rule language reflect that a progress report would be submitted to the Natural Resources Board within two years and that a special study would not necessarily result in a rule revision.

- **Comments on the concepts of "due diligence" and "safe harbor" -** DNR staff received several comments on the concepts of due diligence and safe harbor. C. Garber asked for additional stakeholder comments on these topics and mentioned that A. Stewart has several options to consider during this part of the presentation on rule language (see below)

- **How the Federal HAP program coordinates with the state HAP program** - Some commenters stated that if a federal MACT rule applies to a facility, NR 445 should not apply because the MACT is just as protective of public health as NR 445. Department staff disagree with the assumption that the MACT will always be as protective of public health as NR 445. This topic was discussed in previous meetings and will be covered at a future TAG meeting as well as be addressed in the background memo for the Natural Resources Board meeting.

- **Business Impact Analysis** - C. Garber stated that DNR staff would be evaluating the impacts of the proposed rule on businesses. The data from the WMC sponsored workshops and from the one-on-one interviews conducted by the Department of Commerce will be used in this evaluation. In addition, if companies have done an analysis for their own company and would be willing to share their data with the Department, this would be helpful.

- **What is the DNR position on federal enforceability of state only requirements –** NR 445 is a "state only" rule. Several commenters expressed a concern that if NR 445 requirements are placed into a construction permit and then incorporated into an operation permit that EPA's position is that these provisions become federally enforceable, even though they are flagged in the operation permit as a "state only" requirement. C. Garber noted that this concern is broader than NR 445 and applies to other "state only" requirements as well. The department's position is that "state only" requirements are not enforceable by US EPA. This issue has been brought to the attention of EPA and DNR managers.

- **Comments about the term "sensitive subgroup"-** Due to problems brought up at the last TAG as well as problems defining terms in a meaningful way and the fact that there are other ways of addressing this same issue, this definition will be removed from the next rule draft.

- **Can BACT/LAER analysis be streamlined? –** Wisconsin Paper Council recommended that for emissions of listed carcinogens that are less than a specified level, the source would only be required to conduct a review of pollution prevention options, not a full technology review. This would address their concern that for listed carcinogens with very low emission thresholds the full BACT review will seldom result in controls being economically feasible. Is there a way to fix this? DNR staff will explore ways of addressing this concern.

- **Diesel Exhaust Particulates –** Comments were received asking what is the definition and what sources are included and what are the requirements for those sources? Staff will continue to work on these issues and revised language will be developed and presented at the February 4th meeting.

III. Incidental Emitters

- Jeff Myers, Toxicologist, DNR Environmental Studies Section, presented revised language to explain the concept in the small emitters proposal on locations of concern (see handout memo "Small Emitters: Language Suggestion for Locations of Concern", also there was a one page handout with the language on it – see language in handout for Draft #4 of the proposed rule). The proposed revised language states that emissions sources less than 100 feet from a property line of a residence, school, day care center, or health care facility constitute a "location of concern". Definitions of these items was included in the memo. Using this language would eliminate the need to define sensitive populations

- *Comment* - T. Stocksdale said this approach brought up a lot of zoning issues.
- *Comment* – J. Hausbeck stated that zoning issues can be a problem, but currently there is no consideration for how close people are to emission sources. This would be an improvement.
- *Comment* – A commenter stated that language like this puts a burden on emission sources to know if a land use change occurs and now houses would be next to them.
- *Comment* – M. Werner said that it was appropriate to re-evaluate what is happening in an area if new exposures scenarios change.
- *Comment* – B. Fassbender suggested due to the problems with defining and using terms for locations of concern, one might be better off just eliminating this concept and use the larger list of chemicals (78 chemicals instead of 31).
- *Comment* – R. Salcedo stated that he has concerns about exposures due to people being close to emission sources, but he also did not want to penalize industry if someone purchase land adjacent to them and builds residential housing there. Having businesses be more aware of this issue might improve the zoning process, because a business might bring the issue of exposure up at a zoning meeting.
- *Question* - C. Garber asked for comments on the idea of removing the locations of concern concept and replacing it with a larger list of chemicals.
- *Comment* – J. Beasom, said the definition of school, as suggested in the handout was too broad. Vocational and Colleges did not have sensitive individuals attending them (in his opinion). The definition should be limited to grade school.
- *Comment* – L. Bochert said that a link is missing in the discussion about zoning and the location of concern issue in NR 445. One can't assume that the information from NR 445 would ever get noticed during a local zoning board deliberation on a specific land use question.
- *Comment* – T. Stocksdale commented that to make it fair, get rid of the 100 feet. One should give some types of small emitters an outright exemption or make them do some reasonable calculation to show that they won't cause harm beyond a property boundary. We have to be more realistic than we have been.
- *Comment* – P. Stevens stated that the idea of locations of concern are different than levels of emissions and that the department should consider taking off the idea of locations of concern.

IV. NR 445 Draft #4 Rule Language

- Andrew Stewart, Engineer, DNR Environmental Studies Section, presented the fourth draft of proposed rule language (see handout – also available on the DNR website).

- *Comment* - B. Fassbender commented that the threshold in the rule refers to four different stack heights, but he would like to see a graph that showed a straight line to calculate each stack's threshold. This would make it easier for sources to comply without having to conduct modeling analyses.
- *Comment* – A. Stewart said that staff would check with modeling staff, but that he did not think that a straight line would be possible because of the different stack parameters and meteorological conditions associated with different stack heights.
- *Comment* – T. Stocksdale suggested that the Department do something with the definition of MTE to make it more reasonable and narrow the applicability of the rule to sources that realistically could have emissions that could cause impacts above a standard.

- *Comment* – A. Stewart pointed out that the term "stationary source" was added to the applicability and purpose section of the rule (NR 445.01 (1) and (2)) to make it more clear what the scope of the rule is. There have been misunderstandings in the past about this issue.
- *Comment* – B. Fassbender stated that (in the definition of search and inquiry) options 1 and 2 are not viable, in his opinion.
- *Comment* – T. Stocksdale said that one size does not fit all and the search and inquiry seems to imply that even small sources would have to do the same level of work as larger companies. He said "make the small guys exempt".
- *Comment* – J. Beasom said that this list is too open-ended. One doesn't know when you are done.
- *Comment* – T. Stocksdale said the testing is costly – where do I draw the line to tell someone when to stop?
- *Comment* – L. Bochert commented that the real question here is "Should there be a list of expectations for a reasonable search and inquiry, or not?". Many of the items on the list are so imprecisely defined as to be legally impossible to determine when you are done. If you have a list, make sure it is defined and small (2 or 3 things). A source needs to know when they have done enough.
- *Comment* – M. Werner said that consideration of whether the emitted hazardous air contaminant can bioaccumulate is an important consideration in the level of search and inquiry that is needed. Perhaps the Material Safety Data Sheet (MSDS) is the first tier in an approach for search and inquiry, but other considerations (like environmental persistence) could also be a factor.
- *Comment* – One commenter said that it is the Department that determines what is a reasonable search and inquiry. Nothing in this list can change the Department's authority.
- *Comment* – H. Hofmeister stated that he thought rule compliance is predicated on MSDS sheets and products of combustion are outside the scope of NR 445 rules. In other words, if a source determines their compliance only on MSDS sheets, the source is in compliance with NR 445.
- *Question* – T. Stocksdale asked what other processes emit things that would not show up on MSDS sheets.
- *Response* – J. Myers stated that many reactions create new products (some intended and some not). Examples include chloroform and trihalomethanes from bleaching paper and water chlorination and reactions that occur from biological processes.
- *Comment* – E. Wilusz said that absent some unforeseen problems with search and inquiry, he doesn't want a list of things a source must do for the search and inquiry. He said he hasn't made up his mind yet on the issue of due diligence yet, however.
- *Comment* – J. Beasom stated that he thought it was reasonable for a source to look at its own information, such as TRI reporting, waste reports, etc., but not beyond the source's own information.
- *Comment* – M. Hafele thought that the search and inquiry, as presented in the draft rule, presented a list that tends to appear unmanageable. For example, which of the many trade journals should someone subscribe to and monitor?
- *Question* – T. Stocksdale asked if the department could put on its website, a list of the processes that could emit hazardous air contaminants as a result of combustion, secondary reactions or other releases that would not be listed on MSDS sheets.
- *Response* – A. Stewart stated that this is something we would like to do, but this does not replace the source's responsibility to look for these chemicals and processes as well.
- *Question* – R. Salcedo asked "What are we trying to accomplish?" Regardless of due diligence, etc. what is the practical effect of having a safe harbor for sources?
- *Comment* – B. Fassbender stated that DNR has higher expectations than what sources thought was reasonable, so if a source goes through these hoops (the big problem is the hoops have to repeated for each of 700 chemicals) that DNR has created (defining a reasonable search and inquiry), then companies want a safe harbor that makes them immune from enforcement if they made a good effort, but somehow missed one.
- *Question* – T. Stocksdale asked again if the department could list all the processes that create a toxic chemical, (e.g., benzene, hydrogen sulfide, chloroform from wastewater treatment/bleaching), etc.
- *Question* – J. Hausbeck asked if the changes suggested in search and inquiry would put a damper on research and testing of what chemicals might come out of a facility.
- *Response* – T. Stocksdale said he didn't think it would.
- *Comment* – L. Bochert said that she thought that beyond the MSDS sheets, the issue of creation of hazardous air contaminants is a concern. A list of what other sources of information are available to conduct a search and inquiry constrains the department's discretion, but if the list is too broad, it

defeats the purpose. It is a source's responsibility to evaluate its emissions. She suggested not putting a list of things that a source should do, in the rule.

- *Answer* – C. Garber answered that staff will look into the issue of whether to list sources of information for search and inquiry in the rule and whether it could be in a note in the rule, or in guidance that the department supplies to sources.
- *Comment* – L. Bochert said that sources want to be able to say, "If you have done this and this, you are done." The current language does not supply that level of certainty for a source to know when it is done.
- *Comment* – J. Shoepke stated that he wants to see a definition of due diligence.
- *Comment* – T. Ball stated that many source have to report to the US EPA Toxics Release Inventory. The expectations for that rule may be of interest to this discussion.
- *Comment* – P. Kandziora said that there are exemptions from reporting of chemicals on MSDS sheets and some toxic materials that are not distributed in commerce, are produced in a laboratory, etc. are not required to have MSDS sheets.
- *Comment* – T. Stocksdale stated that he thought in most cases, even if MSDS sheets are not required, companies often still develop them anyway.
- *Comment* – R. Salcedo said that one still needs to consider things that are produced as a result of a process or combustion.
- *Comment* – P. Stevens said that current language in the rule states that if the MSDS sheet does not list a chemical, it is presumed not to be emitted.
- *Response* – A. Stewart said that there are other sources of information that sources need to look at. MSDS sheets alone do not meet the requirements of a reasonable search and inquiry.
- *Comment* – C. Garber stated that the reason the department developed the list of things to be considered in a reasonable search and inquiry was because sources asked us to define the department's expectations in more detail than was available in the current version of the rule. It now sounds like sources don't want the list of possible sources of information in the rule itself. Department staff would like to receive additional comments on this issue and would appreciate specific wording suggestions to meet the various concerns of the stakeholders, as discussed today.
- *Comment* – E. Wilusz, with regard to the definition of a stationary source, said that he hoped that department staff could clear up language in the rule that is vague when it refers to a source. Sometimes the term source refers to an emissions unit and sometimes it refers to an entire facility.
- *Response* – A. Stewart said that the next version, version 5 would attempt to define which term the rule means.
- *Comment* – One commenter said that in the definition of diesel fuel, the department should clarify that the rule applies to internal combustion engines while diesel (or fuel) oil is combusted, and not when burning other fuels, such as natural gas.
- *Comment* – J. Beasom suggested that the term "reciprocating" be added to the term internal combustion engine, to be more precise.
- *Comment* – P. Stevens asked if the definition of on-road diesel fuel was meant to reflect the same as the federal definition of on-road diesel.
- *Answer* – A. Stewart said that this was the same definition.
- *Comment* – A. Stewart, in discussing the indoor fugitive exemption for carcinogens, said that one commenter had thought that department staff were substantively changing the requirements on a source for showing they were in compliance with the exemption. This is not the case. Wording changes just reflect the changes in how chemicals are listed in the tables.
- *Comment* – M. Werner suggested that the American Conference of Governmental and Industrial Hygienists should not contain the word "and". [Note: Mr. Werner is correct – that change will be made].
- *Comment* – M. Hafele stated that he can't see why a source should have to show the WDNR that they are in compliance with OSHA requirements unless WDNR has a reason to suspect potential non-compliance to the OSHA requirements during an inspection.
- *Comment* – One commenter made a suggestion that the current language for the exemption for good wood combustion precludes new wood burning units from using this compliance option and asked the department to consider allowing this exemption for newer units. An additional comment was that perhaps, due to changes in the thresholds for carcinogens, that the parameters for defining good wood combustion could be revised.
- *Response* – C. Garber and A. Stewart stated that staff will review these suggestions.

[Lunch Break]

- *Comment* – L. Bochert, in regard to how the proposal addresses the concept of incidental emitter, said she did not understand how this provision is structured and how it works.
- *Response* – A. Stewart explained the proposal.
- *Comment* – L. Bochert said that it is not clear from the structure of the rule, what it means – its is a question of rule writing, not necessarily a substantive issue.
- *Question* – P. Stevens asked about the process of concern listed as "power generation" and wanted to know what exactly did that entail.
- *Comment* – T. Stocksdale, referring to the NR 445.05, exempt emissions as well as other rule sections, suggested that diesel issues have confounded many definitions in the current rule and suggested that it would be easier to put the diesel issue in its own rule.
- *Questions* – P. Stevens asked how the list of chemicals of concern was developed and if any distinctions were made between known and suspected carcinogens in the listing of chemicals.
- *Answer* – J. Myers said that the list was developed by consultation with a workgroup (consisting of Dr. Anderson and Lynda Knobeloch – Dept. of Health, Dr. Marty Kanarek – UW Madison Dept. of Preventive Medicine, John Hausbeck - City of Madison Health, Rudy Salcedo – Milwaukee Public Health, and Jeff Myers – WDNR). The entire list of NR 445 proposed chemicals was evaluated and each person's list of chemicals was sent around for comments. From those lists, the chemicals that most workgroup members thought would be likely to present a health risk from small emitters (those less than one ton of a VOC or particulate matter), were picked. In this process, no conscious distinction was made to treat known carcinogens differently from suspected carcinogens or from other hazardous air contaminants. The lists represent best professional judgments about which hazardous air contaminants might present a problem in Wisconsin if they are released from "incidental emitters".
- *Question* – P. Stevens asked what the difference was between a source that meets NR 445.XX [compliance requirement for sources of incidental emissions] in NR 445.XX (2) which has to meet the requirement of NR 445.XX (1)(a); as opposed to NR 445.XX (3), which states that as source in compliance with NR 445.XX (1)(b) or (1)(c).
- *Answer* – A. Stewart said that the first one refers to whether a source has a process of concern, while the second refers to a source with a chemical of concern.
- *Comment* – A. Stewart (regarding compliance issues in NR 445.06(1)(b) stated that the added sentence "This demonstration must be done under whatever condition would be allowed by permit or order or by using maximum theoretical emissions", is just clarifying what current department practices are (for clarity) and is not a substantive change.
- *Question* – A commenter asked if the requirement in this section requires that a stack test be witnessed in order for it to be used.
- *Comment* – With regard to NR 445.06(1)(f), there was discussion on how useful this provision would actually be because of the non-realistic assumptions that must be used for some types of sources, for calculation of the maximum theoretical emission (MTE) rate.
- *Question* – A commenter (regarding NR 445.06(1)(g) – risk based determination), asked how, in practice, does one conduct the modeling for this and could this be done for diesel emissions.
- *Question* – L. Bochert asked whether the language changes in NR 445.06(1)(h) 3.[elective emissions limitations]…where the term "The facility shall have", is added, represented any substantive changes
- *Answer* – A. Stewart said that this represents no substantive change.
- *Comment* – B. Fassbender, referring to NR 445.06(1)(l)[Safe harbor], said that changing the terms "achieved" to "is achieving" and changing the terms "held harmless", to "assumed to be in compliance" , changes the meaning. If you are in compliance with identified chemicals, then you are assumed to be in compliance with the others. The problem with this is that at any time, this assumption is rebuttable by the department. He suggests that the words "assumed to be" in compliance be taken out, thus saying that a source that is achieving compliance with this chapter is in compliance for deficiencies relating to new, undetected substances, provided that the owner or operator of a source is exercising due diligence.
- *Discussion* – After discussion, it was decided that L. Bochert and B. Fassbender, as well as DNR staff, would try to "wordsmith" this section further and present the next draft at the February 4th TAG meeting.
- *Question* – P. Stevens (with regard to NR 445.06(2) [compliance schedules] asked about the compliance schedule in the current rules.

- *Answer* - A. Stewart said sources subject to BACT or LAER requirements would need to submit information no later than 18 months after the effective date of the rule. Then, if the Department completed it's review of the information, the source would have 12 months to implement BACT or LAER.
- *Question* – P. Stevens asked what happens if the department does not act within 6 months.
- *Answer* – A. Stewart said that currently, a source is eligible for an automatic six-month extension. Sources also have the ability to request a one-time 6 month extension from any of the compliance deadlines in the rule.
- *Comment* – P. White stated that if a source is later than 6 months, then there is a question about their status----
- *Answer* - A. Stewart said that two interpretations have been made by different parties regarding the compliance status for sources in cases where the Department failed to act within 6 months of submittal of compliance plans. Currently the Department considers a source to be in compliance with NR 445 if they have a compliance plan on file. In these cases the Department must review and approve these plans prior to the source carrying them out due to the source-specific nature of the requirement. Existing rule language states that a source has 12 to 24 months after approval to carry out their plan (depending on the need for control equipment) so essentially the compliance "clock" doesn't start ticking until the approval is made. Others have argued that a source is out of compliance if it hasn't carried out BACT or LAER within the deadlines set in other places in the rule.
- *Comment* – L. Bochert stated that locking a source into just a single six-month extension is not good. She asked what if the same source is an existing source, how long would they have to comply?
- *Answer* – A. Stewart said that if they are an existing source, they would have 3 years, but could obtain the extension. If a source is currently subject to BACT now, then they do not have any additional requirements for that pollutant in new rules.
- *Comment* – A. Reitter suggested that sources should be given an application shield when they submit permit applications.
- *Comment* – L. Bochert stated that that idea could be an alternative to the suggested language in the proposed rule.
- *Comment* – E. Wilusz, (referring to NR 445.06 (3)(b) [compliance extensions] stated that he thought that the 10 years or useful life of the equipment (whichever is less) was too subjective (e.g., definition of substantial capital expenditure) and companies would like it to be 10 years or the useful life of the equipment (whichever is greater).
- *Answer* – A. Stewart said this proposed language reflects the current rule and staff are not proposing to change it at this time.
- *Question* – L. Bochert, referring to NR 445.06 (3)(b) asked about the existing language and the term "may not" and why it was there instead of shall not.
- *Answer* – A. Stewart stated that this language is because of restrictions to meet the rule writing requirements for administrative codes.
- *Comment* – T. Stocksdale stated that a note should be put in NR 445.06 (3)(b) that if new control equipment is used, it may trigger other requirements, such as permitting, etc.
- *Comment* – L. Bochert (referring to NR 445.06 (3)(c)) said that the department needed to be sensitive to the concern that if the department is not timely in its review, this leaves sources vulnerable to suits from third parties that might say the facility is not in compliance with the rule because there is only one six-month extension.
- *Comment* – M. Hafele suggested that a source be given 30 months to comply with the requirements of NR 445, after BACT or LAER is determined by the department.
- *Question* - P. Stevens (referring to NR 445.06 (4)[certification process]) asked how long does a source have until it must certify to the department that it is meeting the rule requirements.
- *Answer* – A. Stewart stated that a source has up to 36 months.
- *Question* – E. Wilusz (referring to NR 445.07 and the Foundry Environmental Management System (EMS) language provided as a separate handout) asked how does the concept of equivalency mesh with top down BACT?
- *Answer* - C. Garber stated that that is one of the areas where discussions were being held with the Foundry EMS group (i.e., the BRAT Company) to decide on how to define this concept better.
- *Comment* - P. Stevens (referring to NR 445.09 [special studies] said that the new language in this draft was an improvement.

- *Comment* – B. Fassbender stated that a chemical should not be listed in Tables A, B, or C if it is the subject of a special study. In his opinion, a special study could result in a decision that existing regulations were not warranted for a chemical and the result could be to not list a chemical. Having the chemical listed in the rule, gives a false impression as to its status. If a chemical does not pose an actual risk in Wisconsin, it should not be listed.
- *Question* – A. Reitter asked if the department was going to make any changes to the spill language in the current rule (section NR 445.11 in Draft #4).
- *Response* - The department has stated that it is not changing the existing rule language with regard to spills in NR 445, or in NR 706. This is a result of lack of agreement of stakeholders on language and on the memo that Jay Hochmuth, Administrator of the Air & Waste Division, wrote to stakeholders in this regard, as discussed and handed out at the December 3rd, 2001 TAG meeting.
- *Question* – T. Ball asked if there would be language that discussed the requirements for sources that must meet federal MACT rules with regard to their requirements in NR 445.
- *Answer* – A. Stewart stated that these issues (and language) will be discussed at a future TAG meeting.
- *Comment* – B. Fassbender (referring to the Tables A, B, and C) said he did not like the added language that states that the thresholds don't apply if the source of emissions has a horizontal or obstructed discharge (e.g., rainhat), or if terrain elevations are more than 25% of the discharge height within 1,000 feet of the stack. He stated that this language was not in the original rule. In his opinion, the modeling that is done for a generic stack is already conservative and with the lowering of the thresholds it makes NR 445 even more conservative.
- *Question* – E. Wilusz asked if staff could present information to the TAG on the status of the residual risk provisions (part of 112 (f) of the clean air act. He wanted to know how US EPA would make residual risk determinations.
- *Response* – E. White said that she could give the TAG a presentation on the residual risk program and give TAG members a status report on how EPA is using this program

V. Other Business/Next Steps/Next Meeting

C. Garber asked people to submit comments on Draft #4 by February 4th so that staff would have sufficient time to consider them before drafting Draft #5 of the rule revision.

The next TAG meeting is scheduled for Monday, February 4, 2002 at the same time (9:30 am – 3:30 p.m.) and room as the Jan 7th meeting (Rm. 027 GEF 2 Bldg. In Madison – the DNR offices).